

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Hanley	Team: Squad #1	CCRB Case #: 201801045	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 02/05/2018 10:40 AM	Location of Incident: § 87(2)(b) [REDACTED]		Precinct: 18	18 Mo. SOL 8/5/2019	EO SOL 8/5/2019
Date/Time CV Reported Tue, 02/06/2018 8:22 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 02/06/2018 8:22 PM		
Complainant/Victim	Type	Home Address			
[REDACTED]	[REDACTED]	[REDACTED]			
Witness(es)	Home Address				
[REDACTED]	[REDACTED]				
Subject Officer(s)	Shield	TaxID	Command		
1. POM Samuel Lavaud	14927	956038	C O S U		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM Richard Holt	11707	955985	HOMLESS		
Officer(s)	Allegation			Investigator Recommendation	
A.POM Samuel Lavaud	Force: PO Samuel Lavaud struck § 87(2)(b) [REDACTED] with an asp.			[REDACTED]	
B.POM Samuel Lavaud	Discourtesy: PO Samuel Lavaud acted discourteously toward § 87(2)(b) [REDACTED]			[REDACTED]	
C.POM Samuel Lavaud	Abuse: PO Samuel Lavaud threatened to seize § 87(2)(b) [REDACTED]'s property.			[REDACTED]	

Case Summary

On February 6, 2018, § 87(2)(b) filed this complaint with the CCRB online.

On February 5, 2018, at approximately 10:40 AM, on § 87(2)(b) in Manhattan, PO Samuel Lavaud of the Crisis Outreach Unit allegedly struck § 87(2)(b) with an asp (**Allegation A: Force**, § 87(2)(g)). PO Lavaud then allegedly placed his asp inside the box where § 87(2)(b)'s head was (**Allegation B: Discourtesy**, § 87(2)(g)). Finally, PO Lavaud allegedly threatened to seize § 87(2)(b)'s property (**Allegation C: Abuse of Authority**, § 87(2)(g)). § 87(2)(g) Video footage was obtained from Lower Manhattan Security Initiative but it did not capture the incident (Board Review 09 and 10).

Findings and Recommendations

Allegation (A) Force: PO Samuel Lavaud struck § 87(2)(b) with an asp.

Allegation (B) Discourtesy: PO Samuel Lavaud acted discourteously towards § 87(2)(b)

§ 87(2)(b) stated that he was sleeping on the sidewalk in front of the § 87(2)(b), lying on a piece of cardboard (Board Review 01). He had a cardboard box on its side over his head and another over his feet. The rest of his body was covered in blankets. PO Lavaud approached § 87(2)(b) and, using his baton, struck hard on the box that was covering § 87(2)(b)'s head multiple times. § 87(2)(b) stated that PO Lavaud could see that his head was in the box, so was intentionally beating on his head through a few millimeters of cardboard. In his initial complaint, § 87(2)(b) reported pain to his head and ringing in his ear throughout the day as a result of the strikes, but during his verified statement did not mention any ear ringing and could not say if he had an injury other than that he may have had one under his hairline. § 87(2)(b) did not obtain any medical treatment. § 87(2)(b) shouted "What are you doing?" PO Lavaud then pulled at the box and poked the baton into the box, inches from § 87(2)(b)'s face. PO Lavaud did not make contact with § 87(2)(b) while poking inside the box. § 87(2)(b) moved himself out of the box and observed a club or a baton in PO Lavaud's hand which he inferred was what PO Lavaud used to hit the box.

§ 87(2)(b) a § 87(2)(b) security officer present during the interaction, stated that she observed two male NYPD officers approach § 87(2)(b) and one asked if he wanted to go to a shelter (Board Review 04). § 87(2)(b) declined. § 87(2)(b) did not see any officer strike § 87(2)(b)'s belongings with a baton or asp or make physical contact with him.

PO Lavaud did not recall the incident (Board Review 02). PO Lavaud did not recall hitting a box with his asp on that date and added that he has between 10 and 20 interactions with homeless individuals daily. PO Lavaud stated that he also has multiple interactions with people who sleep with boxes over their heads. PO Lavaud stated that while some officers will use asps to wake the homeless, he generally just shouts out to them. PO Lavaud denied using an asp to wake up any homeless individual.

PO Holt was driving on 5th Avenue with PO Lavaud when he observed § 87(2)(b) sleeping against a building in a box structure on the sidewalk (Board Review 03). PO Holt parked their

marked van down the block while PO Lavaud got out and approached § 87(2)(b) PO Holt did not see how PO Lavaud got § 87(2)(b)'s attention and did not see him make physical contact with § 87(2)(b)'s boxes or person with an asp.

§ 87(2)(g)

Allegation (C) Abuse of Authority: PO Samuel Lavaud threatened to seize § 87(2)(b)'s property.

§ 87(2)(b) stated that after PO Lavaud woke him up, PO Lavaud informed him that he had a structure on the sidewalk (in reference to § 87(2)(b)'s cardboard boxes) and that he had to clear it out (Board review 01). § 87(2)(b) told PO Lavaud that it was not a structure. PO Lavaud responded that if he did not clear the structure out, he (PO Lavaud) would take it. PO Lavaud walked away towards a patrol car and § 87(2)(b) got up and followed him. § 87(2)(b) asked what law PO Lavaud was referring to. PO Lavaud's partner, PO Holt, approached § 87(2)(b) and stated he would look it up. He looked it up on his phone and provided § 87(2)(b) with "NYC 116.21B" and explained it was a New York City law code. The officers then left.

§ 87(2)(b) stated that approximately five minutes after the initial interaction with officers, § 87(2)(b) followed the officers to their vehicle and spoke to them there. § 87(2)(b) did not hear this conversation. § 87(2)(b) did not hear an officer threaten to take § 87(2)(b)'s property (Board Review 04).

PO Lavaud did not recall the interaction with § 87(2)(b) (Board Review 02). PO Lavaud stated that officers in his command were instructed to tell homeless people to clear away boxes from locations if they blocked the sidewalk but PO Lavaud denied that he told any homeless individual that he would seize their property as he would not want to take it to the stationhouse. PO Lavaud stated that while he regularly explained to homeless individuals that having box structures on a public sidewalk was a summons-able offense, officers assigned to Homeless Outreach do not carry summons books or issue summonses.

PO Holt stated he did not hear the initial interaction between PO Lavaud and § 87(2)(b) (Board Review 03). However, approximately five minutes after PO Lavaud had walked away from § 87(2)(b) § 87(2)(b) approached the officers by their marked van and asked PO Lavaud what the penal law code was for obstructing a sidewalk with an illegal structure. § 87(2)(b) seemed upset. PO Holt attempted to look up the code on a department phone application but it was not working so he provided § 87(2)(b) the code from memory. PO Holt had been informed of the code by his supervisor during roll call that morning. PO Holt did not recall the specific code he cited for § 87(2)(b) PO Holt stated that illegal structures can be seized but that this would normally be done by the Department of Sanitation rather than officers, and would only be done by NYPD in the context of an arrest which would require the property to be vouchered.

§ 87(2)(g)

§ 87(2)(g)

Gender	Percentage
Men	75%
Women	65%

Civilian and Officer CCRB Histories

- _____
- _____

Mediation, Civil and Criminal Histories

- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)

Squad No.: 1

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature _____ Print Title & Name _____ Date _____

